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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,694	06/12/2001	Ulises J. Cicciarelli	RSW920000177US1	3794

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EXAMINER	
NAHAR, QAMRUN	
ART UNIT	**PAPER NUMBER**
2191	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/879,694	CICCIARELLI ET AL.	
	Examiner	Art Unit	
	Qamrun Nahar	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-14,16-24,26-29 and 31-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-14,16-24,26-29 and 31-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/30/04, 11/25/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 3/17/05.

2. The objections to the drawings are withdrawn in view of applicant's submission of replacement sheets and remarks/arguments.

3. The objection to the specification is withdrawn in view of applicant's amendment and remarks/arguments.

4. The objections to claims 3, 18, 19, 27 and 30 are withdrawn in view of applicant's amendment and remarks/arguments.

5. The rejection under 35 U.S.C. 101 to claims 1-11 is withdrawn in view of applicant's amendment and remarks/arguments.

6. The rejection under 35 U.S.C. 112, second paragraph, to claims 4-9 is withdrawn in view of applicant's amendment and remarks/arguments.

7. The rejection under the judicially created doctrine of obviousness-type double patenting to claims 1, 3 and 4 is withdrawn in view of applicant's submission of terminal disclaimer.

8. Claims 1, 3-5, 7-9, 14, 18-19, 24 and 27-29 have been amended.

9. Claims 2, 15, 25 and 30 have been canceled.

10. Claims 1, 3-14, 16-24, 26-29 and 31-33 are pending.

11. Claim 26 stand finally objected to because of informalities.

12. Claims 1, 3, 5-14, 16-24, 26-29 and 31-33 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader (U.S. 5,870,611) in view of Luu (U.S. 5,860,012), and further in view of Zimniewicz (U.S. 6,744,450).

13. Claim 4 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader (U.S. 5,870,611) in view of Luu (U.S. 5,860,012), and in view of Zimniewicz (U.S. 6,744,450), and further in view of Hammond (U.S. 6,637,020).

Information Disclosure Statement

14. The information disclosure statement filed on 9/30/04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Document Number "US2002/00133939" is incorrect; therefore, not considered. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Response to Amendment

Claim Objections

15. Claim 26 is objected to because of the following informalities: it depends on canceled claim 25. Claim 26 is interpreted as depending on claim 24. Appropriate correction is required.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

17. Claims 1, 3, 5-14, 16-24, 26-29 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader (U.S. 5,870,611) in view of Luu (U.S. 5,860,012), and further in view of Zimniewicz (U.S. 6,744,450).

Per Claim 1 (Amended):

Shrader teaches defining an object model representing a plurality of components of a software installation process (col. 1, lines 17-22, "defining... plan object for installing... software), (col. 2, lines 13-22, "components to build the plan object"), populating the object model to describe a particular software installation package (col. 2, lines 47-58, "populate an install plan object").

Shrader does not explicitly teach wherein the defined model enables specifying conditional installation information for the components or wherein the conditional installation information is populated with information to describe conditional installation scenarios. Furthermore, Shrader does not teach using the conditional installation information of the populated object model during an installation of the particular software installation package to determine whether the installation should be performed; and performing the installation if so, and programmatically suppressing the installation otherwise. Shrader does disclose an application

object that represents an application to be installed and serves as a component to build the installation plan object (col. 2, lines 19-22, and lines 47-53). However, Luu discloses that the installation procedures for an application, which are provided by the particular software application, allow for various application installation scenarios (col. 5, lines 60-67) (Examiner interprets Luu's disclosure to encompass enabling the specification of conditional installation information and conditional installation scenarios).

Luu does not explicitly teach using the conditional installation information of the populated object model during an installation of the particular software installation package to determine whether the installation should be performed; and performing the installation if so, and programmatically suppressing the installation otherwise. Luu does teach the installation procedures are not standardized but allow for various application installation scenarios (col. 5, lines 60-67). However, Zimniewicz teaches using the conditional installation information of the populated object model during an installation of the particular software installation package to determine whether the installation should be performed; and performing the installation if so, and programmatically suppressing the installation otherwise (column 8, lines 40-52; if the suite baseline has not been met, then the user is not allowed to continue with the installation. That is, the installation is programmatically suppressed.).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Shrader to include wherein the defined model enables specifying conditional installation information for the components or wherein the conditional installation information is populated with information to describe conditional installation scenarios; and using the conditional installation information of the

populated object model during an installation of the particular software installation package to determine whether the installation should be performed; and performing the installation if so, and programmatically suppressing the installation otherwise using the teaching of Luu and Zimniewicz. The modification would be obvious because one of ordinary skill in the art would be motivated to allow users more options to install (column 3, lines 14-23).

Per Claim 3 (Amended):

Shrader further teaches The method according to Claim 1, further comprising the step of instantiating a plurality of objects according to the defined object mode, each of the instantiated objects corresponding to a selected one of the components of the software installation process (col. 6, lines 19-22, "install plan and its components allow reuse... by creating instances...") and (col. 2, lines 19-22, "the objects... serve as components to build the plan object."), and wherein the populating step populates the instantiated objects (col. 5, lines 60-66, "Each object has certain attributes. .. which operate on the data.") (Examiner interprets this to imply that an Administrator has already performed populating an object, which relates to a component of the instant invention,).

Per Claim 5 (Amended):

Zimniewicz further teaches wherein the conditional installation information comprises a suite-level conditional installation element (Abstract) (The user can choose to install a suite of applications containing components).

Per Claim 6:

Zimniewicz further teaches wherein the conditional installation information comprises one or more software component-level conditional installation components (col. 7, lines 22-34, "install only selected. . . components from the suite").

Per Claim 7 (Amended):

Zimniewicz further teaches wherein the conditional installation information comprises a suite-level conditional installation element and one or more software component-level conditional installation components (Abstract, "install a suite of applications"), (col. 7, lines 22-34, "install only selected... components from the suite").

Per Claim 8 (Amended):

Zimniewicz further teaches a step of evaluating the suite-level conditional installation element and/or the one or more software component-level conditional installation components as preconditions to installing a corresponding one of the components of the particular software installation package (col. 8, lines 33-40, Zimniewicz discloses suite baseline requirements being met, or evaluated, for a component, and a user choosing to install based on these requirements being met.).

Per Claim 9 (Amended):

Zimniewicz further teaches a step of evaluating the suite-level conditional installation element and/or the one or more software component-level conditional installation components as

preconditions to downloading and installing a corresponding one of the components of the particular software installation package (col. 8, lines 33-40, Zimniewicz discloses suite baseline requirements being met, or evaluated, for a component, and a user choosing to install based on these requirements being met.), (col. 6, lines 50-60, "install components that have previously been downloaded").

Per Claim 10:

Zimniewicz further teaches wherein the conditional installation information comprises an executable code module (col. 4, lines 51-56, "computer-executable instructions, such as program modules...").

Per Claim 11:

Zimniewicz further teaches wherein the conditional installation information comprises a reference to an executable code module (col. 4, lines 51-56, "computer-executable instructions, such as program modules...").

Per Claim 12:

Shrader further discloses caching one or more of the plurality of instantiated objects (col. 4, lines 15-18, RAM is the memory into which application programs are loaded. It was a well-known practice in the art at the time of the invention to cache the frequently accessed Ram locations. Furthermore, as defined by Microsoft Press Computer Dictionary, 3rd Editions caching is faster than RAM accesses.)

Per Claim 13:

The rejection of claim 12 is incorporated and further claim 13 recites limitations as recited in claim 12, therefore, claim 13 is rejected under the same rationale as claim 12. Furthermore, avoiding downloading is an inherent use of cache.

Per Claim 14 (Amended):

The rejection of claim 1 is incorporated and further claim 14 recites limitations as recited in claim 1, therefore, claim 14 is rejected under the same rationale as claim 1. Furthermore, Shrader discloses the system for improving installation of software packages (Figure 1).

Per Claim 16:

The rejection of claims 3 and 14 are incorporated and further claim 16 recites limitations as recited in claims 3 and 14, therefore, claim 16 is rejected under the same rationale as claims 3 and 14.

Per Claim 17:

Shrader further discloses wherein the instantiated objects are objects in a scripting language (col. 9, lines 19-20 and 45-50, "Plan objects initiate generating install scripts." "install script files contain commands and order in which applications should be installed").

Per Claim 18 (Amended):

The rejection of claim 7 is incorporated and further claim 18 recites limitations as recited in claim 7, therefore, claim 18 is rejected under the same rationale as claim 7.

Per Claim 19 (Amended):

The rejection of claim 9 is incorporated and further claim 19 recites limitations as recited in claim 9, therefore, claim 19 is rejected under the same rationale as claim 9.

Per Claim 20:

The rejection of claims 10 and 14 are incorporated and further claim 20 recites limitations as recited in claims 10 and 14, therefore, claim 20 is rejected under the same rationale as claims 10 and 14.

Per Claim 21:

The rejection of claims 11 and 14 are incorporated and further claim 21 recites limitations as recited in claims 11 and 14, therefore, claim 21 is rejected under the same rationale as claims 11 and 14.

Per Claim 22:

The rejection of claims 12 and 16 are incorporated and further claim 22 recites limitations as recited in claims 12 and 16, therefore, claim 22 is rejected under the same rationale as claims 12 and 16.

Per Claim 23:

The rejection of claims 13 and 22 are incorporated and further claim 23 recites limitations as recited in claims 13 and 22, therefore, claim 23 is rejected under the same rationale as claims 13 and 22.

Per Claim 24 (Amended):

The rejection of claims 1 is incorporated and further claim 24 recites limitations as recited in claim 1, therefore, claim 24 is rejected under the same rationale as claim 1. Furthermore, Shrader discloses the computer program product for improving installation of software packages comprising computer-readable program code (col. 4, lines 36-48, Shrader teaches instructions stored on medium that carries computer readable information.)

Per Claim 26:

The rejection of claims 3 and 25 are incorporated and further claim 26 recites limitations as recited in claims 3 and 25, therefore, claim 26 is rejected under the same rationale as claims 3 and 25.

Per Claim 27 (Amended):

Shrader further teaches the instantiated objects are structured documents (col. 5, lines 60-67). (The use of structured documents here is synonymous with using object oriented programming to create the documents, in which Shrader teaches.)

Per Claim 28 (Amended):

The rejection of claims 7 and 24 are incorporated and further claim 28 recites limitations as recited in claims 7 and 24, therefore, claim 28 is rejected under the same rationale as claims 7 and 24.

Per Claim 29 (Amended):

The rejection of claims 8 and 28 are incorporated and further claim 29 recites limitations as recited in claims 8 and 28, therefore, claim 29 is rejected under the same rationale as claims 8 and 28.

Per Claim 31:

The rejection of claims 10 and 24 are incorporated and further claim 31 recites limitations as recited in claims 10 and 24, therefore, claim 31 is rejected under the same rationale as claims 10 and 24.

Per Claim 32:

The rejection of claims 12 and 26 are incorporated and further claim 32 recites limitations as recited in claims 12 and 26, therefore, claim 32 is rejected under the same rationale as claims 12 and 26. Furthermore, one skilled in the art would have been motivated to cache one or more of the plurality of components, as opposed to objects, instead of using just RAM.

Per Claim 33:

The rejection of claims 13 and 32 are incorporated and further claim 33 recites limitations as recited in claims 13 and 32, therefore, claim 33 is rejected under the same rationale as claims 13 and 32.

18. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader (U.S. 5,870,611) in view of Luu (U.S. 5,860,012), and in view of Zimniewicz (U.S. 6,744,450), and further in view of Hammond (U.S. 6,637,020).

Per Claim 4 (Amended):

The combination of Shrader, Luu, and Zimniewicz fails to disclose that the instantiated objects are reusable software components. However, Hammond discloses the use of reusable software components as component models (col. 4, lines 49-63). It was well known in the art at the time of the invention that a Java Bean is a reusable application component that can be combined with other Java Bean components to create a Java applet or application. Furthermore, it would have been obvious to use reusable software components as the instantiated objects of Shrader because the Java Bean concept emphasizes the platform-independence of the Java language, in which ideally a program, once written can run on any computing platform.

Response to Arguments

19. Applicant's arguments filed on 3/17/05 have been fully considered but they are not persuasive.

In the remarks, the applicant argues that:

a) Paragraph 24 of the Office Action admits that Shrader does not teach limitations of Applicant's independent Claim 1. The Office Action then cites Luu as teaching these limitations. Claim 1 has been amended herein to incorporate limitations from now-cancelled Claim 2, and as admitted by the Office Action in paragraph 35, Luu fails to teach limitations of Claim 2. Applicants therefore respectfully submit that a combination of Shrader and Luu (if, *arguendo*, such combination could be made and one of skill in the art would be motivated to attempt it) fails to yield amended Claim 1. Paragraph 35 of the Office Action continues by stating that Zimniewicz teaches limitations from Claim 2 which are now incorporated into Claim 1. Applicants respectfully disagree, as will now be discussed.

The Office Action cites col. 8, lines 33-52 of Zimniewicz, and states that this text teaches allowing a user to choose not to install. Applicant have amended their independent Claims 1, 14, and 24 to specify that the installation is "programmatically" suppressed in the case where using the conditional installation information results in determining that the installation should not be performed. Programmatically suppressing the installation is patentably distinct from giving a human being the option to not install.

In view of the above, Applicants respectfully submit that their independent Claims 1, 14, and 24 are patentable over a combination of Shrader, Luu, and/or Zimniewicz. The dependent claims are therefore deemed patentable as well, and the Examiner is respectfully requested to withdrawn the §103 rejection.

Examiner's response:

a) Examiner strongly disagrees with applicant's assertion that the combination of Shrader, Luu, and Zimniewicz fails to disclose the claimed limitations recited in claims 1, 14, and 24. The combination of Shrader, Luu, and Zimniewicz clearly shows each and every limitation in claims 1, 14, and 24.

Zimniewicz teaches using the conditional installation information of the populated object model during an installation of the particular software installation package to determine whether the installation should be performed; and performing the installation if so, and programmatically suppressing the installation otherwise (column 8, lines 40-52; if the suite baseline has not been met, then the user is *not allowed* to continue with the installation. That is, the installation is programmatically suppressed.).

In addition, see the rejection above in paragraph 17 for rejection to claims 1, 14, and 24.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QN
April 28, 2005

WEI Y. ZHEN
PRIMARY EXAMINER